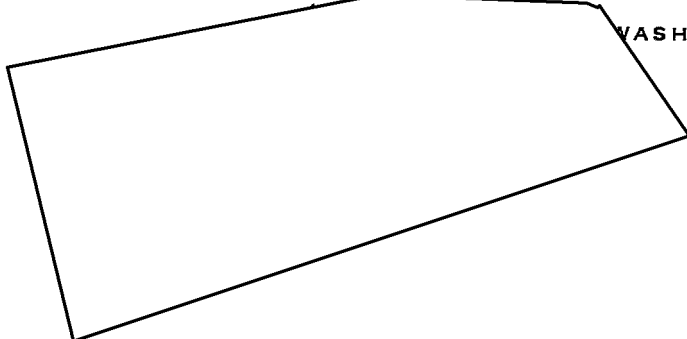



STAT

OFFICE OF THE VICE PRESIDENT
WASHINGTONINFORMATIONMemo No. 275-77
March 15, 1977

MEMORANDUM FOR COMMANDER McMANN

FROM: Denis Clift 

SUBJECT: March 18 Meeting with Senator Inouye and
SSCI

I have drafted the attached talking points for use by the Vice President during the meeting he and the Director of Central Intelligence will have with Senator Inouye this Friday.

I suggest that we discuss your ACTION PLAN paper and the talking points today, with a view to forwarding recommendations to the VP and DCI for Friday's meeting.

TALKING POINTS FOR MEETING WITH SENATOR INOUE AND
MEMBERS OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE

Friday, March 18, 1977
1:30 p.m.

Introductory Remarks

1. Stan Turner and I are very pleased to have this opportunity for informal consultations on the arrangements the Executive Branch has for reporting on intelligence matters to the Congress.
2. Frederick Baron of the Attorney General's staff and Denis Clift of my staff are with us today.
3. As Director of Central Intelligence, Admiral Turner is giving very careful review to control of intelligence information in the Executive Branch.
4. The President believes as I do that the United States must have a fully effective intelligence program in keeping with our national security interests.
5. At the same time, we want to ensure the correctness and legality of that program, we want to ensure correct dissemination and control of intelligence in the Executive, and we want to ensure appropriate accountability to the Congress.

Existing Situation in the Congress

1. The Congress has constitutional responsibilities to assure that the Intelligence Community is appropriately subject to the Congressional powers of appropriations, legislation, oversight and investigation.
2. There are at present seven committees, four in the Senate and three in the House: Senate Select Committee for Intelligence, Armed Services Committee, Appropriations Committee and Foreign Relations Committee, and, in the House, the Armed Services, Appropriations and International Relations Committees.
3. There are overlapping jurisdictions on such matters as defense intelligence organizations. In the House, under House Rule 11, if one Member has access to information, any other Member has a right to request that information.

Issues Requiring Attention of the Congress

1. The Congress must itself decide how best to organize and what procedures to adopt so as to carry out Legislative Branch responsibilities in the field of intelligence.
2. In these informal consultations today, I want candidly to mention three areas of concern to us as we consider possible improvements in Executive-Legislative procedures:

- Number of Committees: We think seven committees is too many. One Joint Committee or a House Select Committee paralleling the Senate Select Committee would be preferable.
 - Protection of Sources and Methods: This is an extremely sensitive area, and procedures should be improved so that we are not faced, as in the past, with situations where staff speaking for the committee have insisted on information which should be given the most careful handling -- information which only the chairman of the committee should request in writing.
 - Third, Committee Rules on Security will require careful attention if both executive and legislative are to be satisfied that handling and control of intelligence documents is adequate.
3. I think it would be useful if Stan Turner were to comment on these points and any others that might usefully guide us in these consultations.

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ADDRESS BY

SENATOR DANIEL K. INOUE (D., HAWAII)

CHAIRMAN,

SENATE SELECT COMMITTEE ON INTELLIGENCE

BEFORE THE

AMERICAN SOCIETY OF NEWSPAPER EDITORS

May 2, 1977

copy made 28 April 77

PRESIDENT GEORGE CHAPLIN

OFFICERS AND MEMBERS OF THE AMERICAN SOCIETY OF NEWSPAPER
EDITORS:

I am honored by your invitation to speak to you and through you to all of the Editors of America. I find myself in a unique position. It is NOT generally realized, but in all my years in Washington I have NEVER called a news conference. Now I face the biggest one of all -- at the call of the Honolulu Advertiser, and its able President, George Chaplin.

In preparing for this meeting with you I have heard from the National Conference of Editorial Writers with its 380 members; the Associated Press Managing Editors representing 1,300 newspapers throughout the land; the Professional Journalism Society Sigma Delta Chi and its 32,000 members and the Board of Directors of ASNE and its strong voice for more than 2,000 newspapers of America.

I know that your interest in the work of the Senate Select Committee on Intelligence is more than cursory; that its oversight of the American intelligence community touches a live nerve with each of you.

The reason the Select Committee on Intelligence was created was because the people in this country in every walk of life and the Congress had lost confidence in the integrity of the intelligence agencies of the United States. The allegations raised in the past few years were so serious and so numerous

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that major investigations were required to determine the truth of the allegations that the intelligence agencies of the United States had acted improperly. It is not an understatement to say that not only had the intelligence agencies lost credibility with the American people, but that the ability of the Congress to direct and oversee the activities of our intelligence agencies was also found to be almost nonexistent. The record of abuse, failure and excess with which we are all familiar led to an effort by the Senate to restore confidence and credibility not only in the utility and necessity of intelligence activities by the United States, but also the ability of our constitutional system to govern the secret activities undertaken by our intelligence agencies.

When the findings of the Church Committee were made, and their reports issued, the Senate created a permanent oversight committee to put into practice the recommendations that committee made and that were made elsewhere to create an effective, constitutionally viable means of oversight for the secret activities of our intelligence agencies.

I would like to report to you today what the Senate Select Committee on Intelligence has done in the year since we were created on May 19, 1976.

The first duty assigned by the Senate to the Senate Select Committee on Intelligence was to develop effective processes of oversight and accountability for the intelligence activities of

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the United States. The hardest task facing the Committee was to balance the right of the public and the Senate to be aware of the government's activities and the necessity to protect the confidentiality of valid national secrets. This balancing question is particularly difficult because of the presumption that as much national business as possible should be conducted in the open light of public review and scrutiny. A balance between secrecy and openness must be struck because the Constitution's design of interaction among the three separate branches of government is based on the conviction that the responsibilities for all that government does, even necessarily secret activities, must be shared by the three branches of government in their appropriate ways. This is the best protection that the public has that secret activities will not destroy freedom.

Of necessity, a great portion of the activities of the intelligence community of the United States is conducted in secrecy. It has become evident in recent decades that the cloak of secrecy, unchecked by effective constitutional checks and balances, has adversely affected the normal processes of the constitutional system. Indeed, until the present time, the Senate had not taken steps to develop any effective formal procedures to review the secret activities of the Government.

In the more than eleven months since the creation of the Senate Select Committee on Intelligence, the Committee has been working to meet the obligations and responsibilities set forth

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in S. Res. 400 which established the Committee and set forth its authorities and responsibilities. To carry out these responsibilities, it has created six Subcommittees -- on Intelligence and the Rights of Americans; Budget Authorization; Collection, Production and Quality; Special Investigations; Charters and Guidelines, Secrecy and Disclosure.

Close working relationships presently exist with each of the intelligence agencies. The Committee has not yet encountered any serious obstacles from the Executive branch to its work. In general, all of the agencies have been forthcoming in providing information.

The Committee and staff have been at work for the past eight months on major problem areas such as counterintelligence, the quality of the estimative process, and are beginning to obtain a good grasp of the important areas of signals intelligence, photographic and other forms of reconnaissance, so that the Committee can authoritatively support necessary technological improvements and research and development efforts. The Committee is now reasonably equipped to handle oversight of covert action programs. It is now able, through its highly qualified and experienced budget staff to do the analysis necessary and to understand in detail the funding for operations of all the intelligence agencies.

I will now go into some of the work of the Subcommittees in detail to give you some idea what the Committee has done in the past year.

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The Subcommittee on Intelligence and the Rights of Americans has concentrated its efforts on legislation to protect the rights of Americans which are affected by the intelligence activities of the United States. The Committee worked closely with then Attorney General Edward Levi in the development of a bill to require that electronic surveillance upon Americans for intelligence purposes be placed under strict procedures of accountability including the requirement for the issuance of judicial warrants for any such surveillance. Attorney General Bell has been working with the Committee on further refinements to this electronic surveillance bill and I expect in the coming weeks that the Committee will introduce a bill which will have broad support of the Administration and the relevant Committees of the House and Senate. The work on the surveillance bill is only one part of a major effort that the Committee has made to draft legislative charters which would define the missions and responsibilities of our intelligence agencies, and where appropriate, place limitations on the scope of their actions, particularly where they impinge upon the rights of Americans.

The Subcommittee on Charters and Guidelines has been working closely with Admiral Turner, Vice President Mondale, and elements of the intelligence community to frame new statutes for the intelligence community as a whole. They are much needed, For example, statutory charters do not exist for such important agencies as the National Security Agency, and important functions

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such as counterintelligence do not have a statutory basis. Further, the charter for the CIA contained in the 1947 National Security Act is clearly inadequate. Within a few weeks, the Committee will introduce the first parts of this charter which will place the intelligence community, consisting of the CIA, the NSA, the DIA, the national intelligence elements of the Defense Departments, and the national intelligence functions of other departments and agencies under more effective central direction and more rigorous accountability and oversight. I am pleased to say that we have been able to work very closely with the present Administration and that I expect that we will be able to enact statutes in this session of Congress which will convey both legitimacy and strict governance to the intelligence community.

The Subcommittee on Intelligence Collection, Production and Quality represents the first Congressional effort to both oversee and evaluate the process of intelligence production and analysis -- the primary mission of the U.S. intelligence community. Increasingly, the Congress has begun to utilize substantive analysis in formulating its position on policy issues, ranging from agriculture to energy to foreign economics. The mandate of the Committee on Intelligence, contained in S. Res. 400, directly reflects this expanded Congressional role. The Intelligence Committee has a role in ensuring that Congress is provided with the intelligence it requires and in ensuring that the intelligence community produces the best quality analysis.

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The work of the Subcommittee on Collection, Production and Quality has focused on the preparation of a series of case studies. These studies are intended to provide the Congress, the intelligence community, and the public with an understanding of the analytic process and to illuminate the problems related to intelligence production.

To give you some idea of the kinds of studies we are engaged in, I cite the following examples:

1. The "A Team-B Team" Exercise. Recently completed, this study evaluated the recent competitive exercise on Soviet strategic weapons that was commissioned by the President's Foreign Intelligence Advisory Board. The Subcommittee's classified report examined the origins of the exercise, its contribution to the estimative process, and its significance for future estimates.
2. Soviet Strategic Weapons Development. This study is a broad examination of Soviet strategic weapons estimates. It will evaluate the estimates' performance regarding numbers of strategic weapons, qualitative weapons developments, and Soviet strategic intentions. The case will also examine the extent to which the estimates have contributed to policy formulation and the ways in which the estimative process might be improved.
3. Oil and the Arab Price Hikes, 1973-1974. This case

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study will evaluate the intelligence community's capabilities in dealing with a major political and economic policy issue. The case will address three specific questions: How well did the intelligence community alert policymakers to the leading role Saudi Arabia assumed in 1973 in using oil as a political weapon against the U.S.? How well, similarly, did intelligence perform in gauging the ability of the OPEC cartel to cut production and sustain oil prices at unprecedented high levels? How well has the intelligence community performed in identifying the disruptive effects of the oil price increases on the world economy?

4. New "Strategic Problems" for the Future. This case study is a broad examination of present intelligence capabilities in the areas of food, natural resources, and population pressures. These are subjects which are not traditional national security issues but will require considerable attention from senior policymakers in the immediate future.
5. Portugal, 1973-1975. This case will examine the intelligence community's effort in anticipating rapid political change and in analyzing its consequences for U.S. policy. The case will compare the community's coverage of Portugal before and after the coup d'etat of April 1974. It will assess the sources of infor-

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mation which contributed to finished intelligence analysis on the subject, the quality of that analysis, and the interaction between intelligence producers and consumers.

6. China. This case study is a broad examination of the intelligence record with respect to China. It emphasizes the inherent difficulties of anticipating events in China and the principal weaknesses and strengths in the intelligence record. The study includes examples of policymakers' disregard of accurate intelligence and recommendations for improving the interaction between intelligence users and producers.

In the past year, the Committee has conducted close to one hundred investigations, inquiries, and studies of alleged improprieties by intelligence agencies. As a part of this investigative effort, the Committee has required the intelligence community to submit formal reports concerning the charges which have been made. The intensity of the Committee's efforts have varied from case to case depending, of course, upon the gravity and scope of the situation alleged.

The permanent oversight Committee on Intelligence was created in large measure as the result of intelligence abuses which were discovered and revealed by its predecessor Committee. At the conclusion of its work, that Committee in May of 1976 issued a series of reports about its findings from investigations

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into improper intelligence activities which had occurred in the period from the end of World War II to 1976. It was the Church Committee's view that abuses occurred in part because of a lack of accountability and poor executive control over the intelligence community, and partially due to a failure of congressional oversight. One year later, it is this Committee's present judgment that the intelligence agencies are functioning under the control of the President, the Director of Central Intelligence, and the heads of the various intelligence entities, and that they are now fully and properly accountable to the Congress. We are confident that under the procedures for oversight that have been developed over the past year, and with the enactment of effective legislative charters which set forth clear and unambiguous standards for what the intelligence agencies may and may not be permitted to do, we will not have to again undergo the difficult task of investigating the entire intelligence community as was required by the predecessor Church Committee.

The Committee recognizes that mistakes of judgment, misguided zeal, and isolated instances of overreach of power will from time to time occur, and that investigations of alleged or actual abuse will be a continuing requirement. Over the past year the Committee has evolved some general policy guidelines to govern its investigations. We believe that these guidelines are essential not only because they create a clearer frame of reference for choices which must continually be made, but also

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because we believe that the Committee, no less than the agencies we oversee, must be publicly accountable, and make its decisions based upon standards which reflect our Nation's sense of the law, moral principle, and common sense. The Committee's basic guidelines are as follows:

1. Unless there is some relationship of an allegation to present-day intelligence activities, the Committee will not investigate any matter which is alleged to have occurred prior to 1976.
2. Unless there is some compelling reason to do so, the Committee will not duplicate investigation of any matter already being investigated by the Department of Justice. In such a case, the Committee will take appropriate steps to oversee the adequacy and completeness of the Justice Department's investigation.
3. Except in extraordinary circumstances, the agency which is the subject of an allegation will always immediately be asked to submit a formal detailed report to the Committee, in writing, concerning the situation alleged. Each report will be reviewed by the Committee to determine whether its report is reasonably complete and responsive. If not, an additional report will be sought, relevant documentation requested, and/or interviews conducted of

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knowledgeable agency personnel. If unresolved issues still remain, a full investigation may be authorized by the Committee.

Over the past year the Committee has worked out with deliberation and care, procedural means to deal with the covert action activities of the United States intelligence agencies. Within a few weeks of the establishment of the Committee, a procedure for oversight of covert activities was put into practice. It was developed in consultation with the Executive branch, particularly the CIA. The procedure is based on the authority contained in S. Res. 400. Thus far, the Executive branch appears to have informed the Committee of every covert action which has required a Presidential Finding prior to its implementation. When the CIA is informed of a Presidential Finding, the Committee is notified prior to implementation. The Select Committee receives a full report shortly after Presidential approval. Briefings on the particular action are given to the Committee by the CIA, the Department of State, and any other relevant agency. Additional documentation, if required, is provided by relevant agencies. Action by the Committee, if any, can include the following: Comment to the Executive branch; referral of information to the other Committees, if appropriate; disclosure under the provisions of S. Res. 400, Section 8; or it can impose funding restrictions. In addition to notification and termination reports, the Select Committee receives, at least on a semi-annual basis, status reports on

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all current covert action projects. In addition, the Committee is able to conduct thorough studies on particular covert action programs, and has had reasonable access to agencies' files and personnel. But perhaps the most important means the Committee has to monitor covert action is the annual authorization bill for intelligence activities including covert action. In the process of the preparation by the Committee for mark-up and reporting of the first authorization bill for all intelligence activities of the U.S., the Committee reviewed all covert action projects, project-by-project. Thus, it is clear that the Senate, through its delegated Committee, has been able to consider and act on the record in conformity with constitutional processes even in so difficult and secretive an area as covert action. If the procedures established during the past year are continued, there is every reason to believe that whatever covert action is undertaken by the United States, it will reflect the national will as expressed by both the Executive and Legislative branches and not by just the Executive branch alone.

The Senate Intelligence Committee is composed by design of the full spectrum of views contained in the Senate from left to right. It includes Republicans and Democrats from the Committees on Appropriations, Armed Services, Foreign Relations and the Judiciary.

In early February, the Select Committee created a Subcommittee on Secrecy, Disclosure and Classification. The charge

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of the Subcommittee is to undertake a study of present secrecy laws and regulations, with a special focus on the espionage statutes and the classification rules of the Executive Branch. It has been asked to develop recommendations for the Committee to consider on what new legislation or Executive action, if any, is necessary to strike a more workable balance between necessary secrecy and the right of the people to be informed of the activities of governmental agencies.

It is the view of the Committee that the question of what is and what is not a valid national secret, and to what extent new laws are necessary to govern the limits of secrecy, disclosure and classification are among the most troubling and fundamental questions facing the Select Committee and the Congress. They are threshold questions for public debate over congressional oversight and control of secret operations of the intelligence community. The Committee will seek to determine what the public consensus is on what can and should be kept secret in the name of national security. If this consensus can be reached, it will, in large measure, shape the extent of clandestine and covert activities of the intelligence agencies of the United States.

The experience of the Watergate Committee, the Pentagon Papers case, the Marks-Marchetti case, and recent press disclosures of intelligence activities create a compelling record for congressional study of the present security classification, executive orders, and criminal statutes. The present state of

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the law is inadequate, and serves neither the national security nor the people's right to know. The ambiguities of the law require congressional committees and executive branch officials with foreign policy and national security responsibilities and news reporters with foreign policy and national security reporting responsibilities often to act in doubt and sometimes at their peril. In the past, both Congress and the press have been denied information and accused of irresponsible "leaks" if they disclose what they learn, and accused of "cover-ups" if they fail to do so. Clearly, this is a dangerous situation that requires remedy.

The Select Committee's purpose is to go beyond the debate on "leaks" or "cover-ups." The Subcommittee will begin hearings in the early summer on the present statutes and proposed remedies. Through this hearing process and its own analysis, the Subcommittee will examine the nature and substance of the actual information the intelligence community and its critics believe should or should not be withheld from the public. The Committee will make its own assessment of the benefits or damage, if any, that the disclosure of such information might have upon the national security. It will also conduct an in-depth study of the secrecy system now in operation, examining various departmental classification systems presently in use in the executive branch. To the extent feasible, the Subcommittee will conduct its inquiry in public. At the conclusion of these public sessions, the Subcommittee will make recommendations to the full

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Committee for revision of the relevant statutes and regulations based on that public record.

Congress has not undertaken such an effort since 1917 when it wrote the existing espionage laws. Those statutes were written in the heightened atmosphere of World War I, while the bulk of current executive branch orders and regulations were conceived in large part in the tense period of the McCarthy era. It would serve the nation well to reexamine these laws in the relatively calm atmosphere of 1977.

One goal of the Committee is to frame statutes and executive branch regulations that will permit a precise definition of what is and what is not a legitimate national secret. The Committee is mindful that no set of statutes should permit the use of ambiguous criminal laws to stifle freedom of speech or inhibit dissent within the executive branch, as many contend is the case with the present statutes. Nor would such statutes permit the disclosure of sensitive "sources and methods," including the names of clandestine agents as intelligence community officials claim is the case with the present espionage statute. Nor would such a system permit the excessive secrecy which now exists within the executive branch, an excessive secrecy which jeopardizes both national security and the right of the people to know. As Justice Potter Stewart pointed out in his opinion in the Pentagon Papers case, "When everything is secret, nothing is secret."

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On Wednesday, April 27, Admiral Turner appeared before the Select Committee in open session and gave what I regard as an important example of the efforts that are being made to develop workable constitutional processes dealing with secret activities. Speaking of the intelligence budget, Admiral Turner said:

The way we spend our intelligence money in this country is one of our necessary secrets.

At the same time, we are a free and open society. It is appropriate that our citizens be kept well informed of the activities of their government. They are in fact, the best oversight body in the prevention of any possible excesses of governmental action. The public's right to understand the workings of our intelligence processes is a part of their being adequately informed of our governmental process. Some compromise then is necessary between the risks of giving the enemy an unnecessary advantage over us and of protecting the basic openness of our society. Accordingly, President Carter has directed that I not object to your releasing to the public, the single overall budget figure of the U.S. Intelligence Community.

It is my view that President Carter and Admiral Turner came to this position through a fresh evaluation of the respective needs of intelligence and our open society.

I would like to close by expressing my views on what I know to be a very urgent concern of all who believe in the importance of a strong independent free press. I am well aware that many of you here have been engaged in the consideration of the problem of intelligence activities in the press. I can report to you that the CIA will not enter into any paid or

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contractual relationship with any full-time or part-time news correspondent accredited with any U.S. news service, news paper, periodical, radio-TV network or station. That includes stringers. This existing restriction, now in the form of a CIA Directive will be included in the proposed statutory charters which will be introduced in the coming weeks.

A number of editors and reporters have expressed the view that the CIA should not be involved in any contractual or paid relationship with any press or media organization or individual, foreign or domestic, and I am well aware that many in your organization are concerned with the flow-back problem of placements made by intelligence agencies abroad. I, too, am concerned with this problem. I have met with Admiral Turner and his associates on this matter. The Committee will make a thorough review of this question. Any suggestions, information or recommendations you might have would, of course, assist the Committee in carrying out this task. This is the kind of issue that goes to the heart of the balancing question between the needs of secret intelligence activities, and the need to protect and nurture institutions of freedom such as a vigorous free press.

Finally, I want to say that I appreciate this opportunity to tell you something of our Committee's activities. We exist largely because of the efforts of many who are here today, and I hope that you will agree with me that the progress we have

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made thus far to create a constitutionally viable means of oversight to govern the secret activities of our intelligence agencies has been successful.

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